

**MINUTES
EAGAR TOWN COUNCIL
REGULAR MEETING
22 W. 2nd St., Eagar, AZ
August 2, 2016 - 7:00 P.M.**

Mayor Bryce Hamblin called the Regular Council Meeting to order and welcomed those present. Mayor Hamblin requested that the record show that all Councilmembers are present. Mayor Hamblin led the Pledge of Allegiance and Winslow McNeill offered the invocation.

COUNCIL PRESENT: Bryce Hamblin, Mayor
 James Nelson, Jr., Vice Mayor
 Debra Seeley
 Steve Erhart
 John O. Phelps
 Winslow McNeill
 Allen Browning

STAFF PRESENT: Tami Ryall, Town Manager
 Katie Brady, Finance Manager
 Eva Wilson, Town Clerk
 Bruce Ray, Public Works Director
 Mike Sweetser, Interim Police Chief
 Frank Adams, Fire Chief
 Jeremiah Loyd, Community Development Administrator
 Doug Brown, Town Attorney

ITEM #5: SUMMARY OF CURRENT EVENTS

A. MAYOR

None.

B. COUNCIL

None.

C. STAFF

Town Manager Tami Ryall stated the Council has the Eagar Days schedule at their seats and reminded Council of serving for the Eagar Days Ice Cream Social Friday which will start at 6:00 p.m. this year.

Town Clerk Eva Wilson thanked Councilmembers who have volunteered to time for the Eagar Days logging competitions on Friday and Saturday.

Interim Chief Mike Sweetser reported that Officer JR Herreras started with the Eagar Police Department July 9th; Cadet Walker Richardson graduates from the police academy on August 4th with his first day of field training beginning August 6th.

ITEM #6: OPEN CALL TO THE PUBLIC

None.

ITEM #7: PRESENTATIONS

A. PRESENTATION OF THE SAFEGUARD AND SERVE WITH HONOR AND VALOR AWARDS

Interim Chief Mike Sweetser stated that this quarter's Serve with Honor and Valor Award is presented to Civilian Volunteer Patrol (CVP) member Micky Tieman. CVP Tieman painted a new sign displayed in front of the police department. This project only cost the Town the cost of supplies of approximately \$200 and the sign is visible at night. CVP Tieman and Zona Gilliam created the design.

B. PRESENTATION OF POLICE DEPARTMENT 2016 SECOND QUARTER ACTIVITY REPORT

- April 6, 2016 – Participated in Walk to School Day and Reading in Schools programs
- April 11, 2016 – Two cadets started academy
- April – Sexual Assault Awareness Month, teal colored ribbons are set out in businesses with CVP assistance
- April 20, 2016 – Public forum, 'Keeping our Children Safe'; experienced a positive outcome and the next schedule forum is set for August 31.
- May 2, 2016 – Special Olympics Torch Run with Officer Steven Jones bicycle riding the entire route from State Highway 180/60 Junction to State Highway 373 Junction. CVP's assisted with traffic control
- May 3, 2016 – Walk to School Day
- May 4 and 6, 2016 – Assisted with Special Olympics State games in Glendale
- May 18, 2016 – Met with Arizona Peace Officer Standard and Training (AZPOST) Director
- Lost one cadet out of the academy
- June 3 and 4, 2016 – John Wayne Days; provided traffic control for the parade, and conducted sale of raffle tickets for 2017 Special Olympics earning \$750 towards Special Olympics and \$1,000 for the John Wayne Cancer Foundation
- June 11, 2016 - CVPs provided traffic control for the Walk for Life event
- Efforts to establish an intergovernmental Special Response Team (SRT) in Navajo County with a two county response area including Apache County
- Established base plans in case of an evacuation occurring due to Cedar Creek Fire

- Animal Control Officer Stonestreet raised enough funds to have the Eagar Police Department placed on the 2016 Special Olympics shirt
- 28 policies approved and issued, 25 more in approval, 90 more to be reviewed
- Traffic complaint letter established by citizen complaint for suspected violators (considered a written warning)
- No correlated criminal activity notated
- Down in call numbers compared to last year, attributed in part to less officers on the streets at this time

Councilor Steve Erhart inquired if the Town is still looking at placing more traffic signage. Interim Chief Sweetser confirmed this.

Councilor Debra Seeley stated there are mothers posting problem traffic violation areas on Facebook and Councilor Seeley has tried to tag the Eagar and Springerville Police Departments. Interim Chief Sweetser asked Council Seeley to friend and tag him for direct contact; also by calling in violations, stats can be accumulated and used for further study or grant applications.

ITEM #8: CONSENT AGENDA

- A. APPROVAL OF MINUTES OF EAGAR TOWN COUNCIL MEETING(S) HELD JUNE 28, 2016
- B. APPROVAL OF JUNE 2016 NATIONAL BANK OF ARIZONA TRANSMITTALS, CHECKS WRITTEN, PAYROLL DIRECT DEPOSIT VOUCHERS, AND CREDIT CARD PURCHASES
- C. ACCEPTANCE OF JUNE 2016 FINANCIAL REPORT AND SALES TAX REPORT
- D. APPROVAL TO ENTER INTO AN AMENDED AGREEMENT WITH THE ARIZONA COMMERCE AUTHORITY TO ACCEPT \$30,000 FROM THE RURAL ECONOMIC DEVELOPMENT ENHANCEMENT PROGRAM
- E. APPROVAL TO ENTER INTO AN AGREEMENT WITH J2 ENGINEERING TO IMPLEMENT THE RURAL ECONOMIC DEVELOPMENT ENHANCEMENT GRANT
- F. APPROVAL TO ENTER INTO A PRE-PAID LEASE AGREEMENT WITH VERIZON WIRELESS FOR \$270,000
- G. APPROVAL TO ENTER INTO AN UPDATED INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF EAGAR AND THE STATE OF ARIZONA DEPARTMENT OF REVENUE RELATED TO THE COLLECTION OF THE TOWN'S TRANSACTION PRIVILEGE TAX

- H. APPROVAL TO ADOPT RESOLUTION 2016-11 ACCEPTING A PROPOSITION 202 GRANT FROM THE GILA RIVER INDIAN COMMUNITY IN THE AMOUNT OF \$70,000 TO BE UTILIZED TO UPGRADE SELF-CONTAINED BREATHING APPARATUS FOR THE EAGAR FIRE DEPARTMENT
- I. APPROVAL OF AN ARCHITECTURAL/ENGINEERING SERVICES CONTRACT WITH NCS ENGINEERS FOR THE 12TH STREET WATER TANK ASSESSMENT AND DESIGN

Mayor Bryce Hamblin stated there was a request to remove Items F and I from the Consent Agenda for discussion, and asked for a motion to approve the remaining Consent Agenda items.

Councilor Winslow McNeill made a motion to approve the Consent Agenda with the exception of Items F and I. Councilor Debra Seeley seconded; all were in favor, motion carried unanimously. 7-0

DISCUSSION AND CONSIDERATION OF:

- F. APPROVAL TO ENTER INTO A PRE-PAID LEASE AGREEMENT WITH VERIZON WIRELESS FOR \$270,000

Mayor Bryce Hamblin stated that there has been a request to renegotiate Section 14 (second paragraph) of the Lease Agreement regarding the coverage of future property taxes. Town Manager Tami Ryall stated that this caveat has been a major subject of negotiation over the past several months. Originally Verizon Wireless wanted the Town to be designated as the payee of taxes as the Town is actually exempt from paying taxes on real property. Ms. Ryall pushed back asking that they pay any taxes on any of the personal property which includes Verizon's towers, dishes and any improvements placed upon the property and the Town would retain responsibility for property taxes in the event that the Town's real property becomes taxable. Ms. Ryall stated she could revisit the issue with Verizon, but that they were quite adamant on the language in Section 14. The real property in question is .02 acres in size for a Pre-paid Lease Agreement in the amount of \$270,000 for the potential 49 years.

Councilor Winslow McNeill wanted to know if there was a feel that the Town real property would become taxable. Mayor Hamblin doesn't think municipalities can foresee a time when all municipally owned property would become taxable and believes Councilor Erhart's concern is with municipally owned property that is being leased to another party being subject or becoming subject to taxation. Councilor Steve Erhart stated that this is becoming a big issue being discussed with Maricopa County municipalities right now. If it were to happen his concern is that this is a 49 year lease that could be subject to taxation to paid by the Town. He added, that originally Verizon wanted to turn an easement purchase into a pre-paid lease agreement.

Ms. Ryall stated that even under an easement purchase any change in the law which makes leased property taxable would have also applied to the Town because the Town would have

maintained the underlying fee ownership. Verizon and American Tower's preferred transfer mechanism was a pre-paid lease agreement. The Town must balance receiving \$270,000 pre-paid versus the theoretical risk of a legislative change in the law to tax a .02 acre piece of property. Councilor Erhart stated that if the tax wasn't an issue Verizon wouldn't have negotiated so hard to have it stipulated in the lease; they are fully aware of what is occurring in the other counties. Ms. Ryall stated that it's a very different issue and has to do with centrally valued property taxation because they are a telecommunication provider that is not taxed by Apache County but is taxed by the Arizona Department of Revenue. Adding in the real property is adding another layer of taxation for a telecommunication company not normally paid and so Ms. Ryall doesn't believe there is an ulterior motive for Section 14, but that they're only trying to simplify and align this lease agreement with similar agreements, of which they have many to maintain. However, she was adamant with them that they are responsible for their own personal property taxes.

Councilor Erhart feels that the current language accommodates Verizon by changing their first right of refusal to obtain the easement by asking for a pre-paid lease instead and that they be responsible for the real property tax wasn't too much to ask in return. He reiterated that this scenario is exactly what is being discussed with municipalities within Maricopa County – the leasing of municipal property by retaining ownership and removing tax burden from businesses to bring them into their area. Ms. Ryall stated the broader issue being discussed in Maricopa County municipalities relates to the government property excise tax which is similar to what is arranged with our Bashas' where a large piece of property with a building on it is leased. However, there is no discussion relating to this tax specific to cell towers or utilities that are centrally valued from the Department of Revenue.

Councilor Erhart's concerns are that this is a major issue with municipalities and this is a 49 year lease that the Town stands to be responsible for long term. An alternative to the language in Section 14 could stipulate that if the law changes and the property becomes taxable because of the lease, there is an ability to terminate the lease.

Mayor Hamblin turned to Town Attorney Doug Brown for an opinion. Mr. Brown stated that the amount of tax the Town could be responsible for is based on what value Apache County could place on the land because of the development on the piece of property in question. Ms. Ryall stated the burden of personal property is Verizon's responsibility. Therefore, Mr. Brown stated that the value would be nominal on a .02 acre area. Councilor Allen Browning and Mayor Hamblin are also under the opinion that taxes for real property on .02 acres would be nominal, even for 49 years.

Councilor Erhart asked that the Town renegotiate. Vice-Mayor James Nelson, Jr. asked how long it would take to renegotiate. Ms. Ryall stated that would be hard to tell because she pushed them very hard to negotiate the pre-paid lease agreement for \$270,000. Ms. Ryall stated that she originally started this negotiation with American Tower and four other companies which resulted in an agreement with Unisom; afterwards, Verizon/American Tower offered \$5,000 more than the Unisom agreement. Verizon has been keeping on track to get everything completed for this lease agreement. Councilor Erhart stated meanwhile the Town is being paid for the property monthly in the amount of \$861.

Councilor Allen Browning made a motion for approval to enter into a Pre-paid Lease Agreement with Verizon Wireless for \$270,000. Councilor Debra Seeley seconded; six were in favor of the motion, Councilor Steve Erhart was opposed; motioned carried. 6-1

I. APPROVAL OF AN ARCHITECTURAL/ENGINEERING SERVICES CONTRACT WITH NCS ENGINEERS FOR THE 12TH STREET WATER TANK ASSESSMENT AND DESIGN

Mayor Hamblin stated the concern on this item is the failure to advertise for bids. Ms. Ryall explained the difference between what a bid is and what a professional services contract is. Purchases are determined by bid or sole source. This service contract is not a purchase; it is an engineering services contract whereas the process is qualification based. It is specifically prohibited by Arizona Revised Statute to use price as the deciding factor to award an engineering services contract. Engineering services contracts are first picked on qualifications and then the price can be negotiated.

Ms. Ryall accepts any criticism as the Town did a direct select. There are not many firms that provide this specialized type of work. Upon looking at which firms actually performs these services, they were contacted and NCS Engineers was the most responsive in actually helping when the Town was putting a grant proposal together to submit to Water Infrastructure Finance Authority (WIFA) and performing a lot of the pre-assessment work needed because the Town had not contemplated submitting for a WIFA grant. This project was originally a Capital Improvement Project (CIP) and personnel really didn't know how to proceed. Upon asking what the project would entail, this firm was responsive. The direct select is also justified in that this is a very small engineering services contract that is on a relative timeline crunch as the project is going to require draining of the water tanks after the high point of the heat of the summer and before freezing temperatures. Therefore, it was based on responsiveness and expediency to stay with the firm that had helped all along.

Mayor Hamblin reiterated that it is illegal to select a provider on price and that contractors have to submit their qualifications, and then the Town selects a firm prior to knowing what the price will be. Ms. Ryall agreed and upon negotiating a price, if the price is not acceptable with the highest qualifying contractor, you look at the next most qualified contractor. Mayor Hamblin asked if in her opinion this was a competitive price. Ms. Ryall stated it is a competitive price and it's a firm that we feel confident in to do their job and in their interest in having the Town as a long-term client.

Vice-Mayor James Nelson made a motion for to enter into an Architectural/Engineering Services Contract with NCS Engineers for the 12th Street water tank assessment and design. Councilor Allen Browning seconded; all were in favor, motion carried unanimously. 7-0

ITEM #9: UNFINISHED BUSINESS

None.

ITEM #10: NEW BUSINESS

None.

ITEM #11: SIGNING OF DOCUMENTS

Necessary signatures were obtained for the Minutes of June 28, 2016; the June 2016 Financial Pages; Arizona Commerce Authority Agreement; Rural Economic Development Enhancement Grant; Pre-paid Lease Agreement with Verizon Wireless; Arizona Department of Revenue Intergovernmental Agreement; NCS Engineers Contract; and Resolution 2016-11.

ITEM #12: ADJOURNMENT

Councilor Winslow McNeill made a motion to adjourn the meeting [at 7:36 p.m.]. Councilor Allen Browning seconded; all were in favor, motion carried unanimously. 7-0

Attest: _____

Mayor: _____

Vice-Mayor: _____

Council: _____

CERTIFICATION OF COUNCIL MINUTES

I hereby certify that the foregoing minutes is a true and correct copy of the minutes of the Regular Council Meeting of the Town of Eagar, Arizona held on August 2, 2016.
I further certify that the meeting was duly called and held and that a quorum was present.

Eva M. Wilson, Town Clerk